



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

ELP

Docket No. 3540-00

27 October 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 27 April 1954 for three years at age 17. The record reflects that you served without incident until 7 September 1954 when you were convicted by summary court-martial of a 15 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for 30 days and a forfeiture of \$50.

On 4 December 1954 you were convicted by a special court-martial of a 29 day period of UA. You were sentenced to confinement at hard labor for six months, forfeitures of \$55 per month for six months, and a bad conduct discharge. The convening authority approved the sentence but suspended the bad conduct discharge for the period of confinement and six months thereafter. The Navy Board of Review affirmed the findings and the sentence on 28 December 1954. You were released from confinement and restored to duty on 5 May 1955.

On 24 May 1955, you received nonjudicial punishment (NJP) for a nine hour period of UA and were awarded two weeks of extra duty.

On 10 June 1955, you were convicted by a second summary court-martial of a two day period of UA. You were sentenced to 20 days of confinement and a forfeiture of \$55.

You were reported UA again on 22 August 1955 and remained absent until you surrendered to military authorities on 28 September 1955. On 10 October 1955, the convening authority vacated the suspended bad conduct discharge and ordered it executed. You received the bad conduct discharge on 22 October 1955 .

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, and the fact that it has been 45 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of an NJP and conviction by two summary courts-martial and a special court-martial. The Board noted the aggravating factor that your misconduct continued even after you were given an opportunity to earn a discharge under honorable conditions when the bad conduct discharge was suspended. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that you were guilty of too much misconduct in only 17 months of service to warrant recharacterization to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director